

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF DELAWARE

Jimmie Lewis

VS.

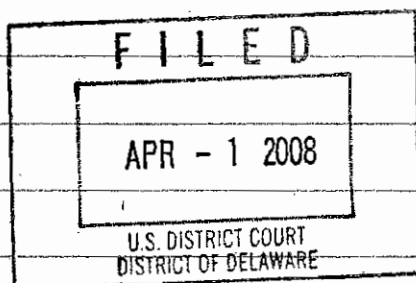
CA NO. 04-1350 GMS

DR. SYLVIA FOSTER, ET AL.

PLAINTIFF'S MOTION FOR DISMISSAL  
OF DEFENDANTS SYLVIA FOSTER'S  
MOTION FOR SUMMARY JUDGEMENT #1

DATE: 3/28/08

Jimmie Lewis  
SBI # 506622  
DEL. CORR. CENTER  
1181 PADDOCK RD  
SMYRNA, DE 19977



p.1

#1.) THE DEFENDANT FOSTER VIOLATED THE PLAINTIFFS SIGNIFICANT LIBERTY INTEREST IN AVOIDING THE UNWANTED ADMINISTRATION OF ANTI-PSYCHOTIC DRUGS UNDER DUE PROCESS CLAUSE OF THE 14TH U.S.C.A., BY GIVING AND ORDERING THAT THE PLAINTIFF BE INJECTED WITH ANTI-PSYCHOTIC DRUGS - HALDOL - ATIVAN - GEOPON AGAINST HIS WILL AT THE D.P.C ON NUMEROUS OCCASIONS, AFTER DEFENDANT FOSTER AUTHORED HER JUNE 10, 04 REPORT, THAT STATES THERE WAS NO MEDICAL REASON DUE TO DEFENDANT DIAGNOSING THE PLAINTIFF AS MALINGERING, STATING PLAINTIFF RECEIVED NO ANTI-PSYCHOTIC DRUGS DURING HIS ADMISSION DUE TO NO EVIDENCE OF MOOD DISORDER AND NO EVIDENCE OF PSYCHOSIS, THE AFOREMENTIONED DESTROY'S DEFENSE THAT THERE WAS MEDICAL REASON FOR ADMINISTRATION OF ANTI-PSYCHOTIC DRUGS TO THE PLAINTIFF AGAINST HIS WILL. 90 PERCENT OF THE ANTI-PSYCHOTIC DRUGS ADMINISTERED TO THE PLAINTIFF WAS AFTER JUNE 10, 04. FURTHERMORE, DEFENDANT FOSTER HAS FAILED TO PROVIDE THE PLAINTIFF WITH A.) WRITTEN NOTICE OF INFRACTION, B.) HIS RIGHT TO PRESENT EVIDENCE. C.) HIS RIGHT TO CALL WITNESSES IN HIS BEHALF, D.) HIS RIGHT TO BE PROVIDED WITH THE FACT FINDING RATIONAL, E.) HIS RIGHT TO CONFRONT HIS ACCUSER F.) HIS RIGHT TO APPEAL. ALSO, THE DEFENDANTS CLAIM OF AN EMERGENCY SITUATION BEING REASON THE PLAINTIFF WAS ADMINISTERED ANTI-PSYCHOTIC DRUGS IS MERITLESS ABSENT NAME(S), DATE(S), TIME(S), LOCATION AND FULL DISCRIPTION OF THE PLAINTIFF'S ALLEGED VIOLENT CONDUCT. SEE; RIGGINS VS. NEVADA, 504 U.S 127, 135 (1992).

DEFENDANT INJECTING THE PLAINTIFF WITH ANTI PSYCHOTIC DRUGS VIOLATED HIS 14TH U.S.C.A RIGHTS

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#2.) DEFENDANT FOSTER'S JUNE 10, 04 REPORT STATES THE PLAINTIFF RECEIVED NO ANTI-PSYCHOTIC DRUGS DURING HIS ADMISSION DUE TO NO EVIDENCE OF MOOD DISORDER AND NO EVIDENCE OF PSYCHOSIS, AND THEREAFTER DIAGNOSING HIM AS MALINGERING. BUT THE FACTS AS REVEALED VIA PLEADINGS - DISCOVERY - ADMISSIONS - INTERROGATORIES - DEPOSITIONS AS WELL AS THE DEFENDANT'S MOTION FOR SUMMARY JUDGEMENT AND HER MARCH 26, 08 AFFIDAVIT STATE AS A MATTER OF FACT THAT THE DEFENDANT INDEED ADMITS TO INJECTING THE ANTI-PSYCHOTIC DRUGS ATIVAN - HALDOL AND GEODON AGAINST THE PLAINTIFFS WILL, AS WELL AS RESTRAINING THE PLAINTIFF AGAINST HIS WILL FOR ALLEGED EMERGENCY REASONS, ABSENT STATING NAMES, DATES, TIMES, LOCATION AND A FULL DESCRIPTION OF THE PLAINTIFFS ALLEGED VIOLENT CONDUCT. THIS IS BECAUSE DEFENDANT FOSTER'S DELIBERATE INDIFFERENCE AND RECKLESS DISREGARD TO THE PLAINTIFFS HEALTH AND SAFETY DEFINES THAT THE DEFENDANT INTENDED TO HARM AND PUNISH THE PLAINTIFF. THE AFOREMENTIONED DEFINES THE DEFENDANT'S ACTIONS OF PENAL MEASURES REGARDING THE PLAINTIFF'S CONDITION OF CONFINEMENT: VIOLATED CIVILIZED STANDARDS AND CONCEPTS OF HUMANITY AND DECENCY.

SEE; ESTELLE VS. GAMBLE, 429 - U.S. 97, 102 (1976).

THE DEFENDANT ACTIONS STATED HEREIN, DEFINES VIOLATION OF HIS EIGHT U.S.C.A RIGHTS TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT.



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#3.) IN REGARDS TO THE DEFENDANTS DEFENSE OF QUALIFIED IMMUNITY. THIS HONORABLE COURT SHOULD NOT MAKE CREDIBILITY DETERMINATION, OR WEIGH THE EVIDENCE OF THE DEFENDANTS STATE OF MIND.

REEVES VS. SANDERSON PLUMBING PROD. INC, 530 U.S. 233, 150 (2000). THE DEFENDANTS STATE OF MIND IS VIEWED IN HER PLEADING, DEFINING A DETRIMENTAL CONTRADICTION OF THE DEFENSE THE DEFENDANT CITED UNDER 11 DEL C § 468, (3); (5); AND (7), IN HER JUNE 20, 05 MOTION TO DISMISS. THIS IS BECAUSE THE DEFENDANT FAILED TO AVAIL HERSELF UNDER 11 DEL C § 468, (2); AND (4), IN WHICH DESCRIBES MAINTENANCE OF REASONABLE DISCIPLINE, PREVENTION OF MISCONDUCT, OR AUTHORITY OF A DOCTOR WHO WAS ADMINISTERING TREATMENT.

THE DEFENDANTS ELUSIVE DEFENSE TACTICS, FOR WHICH HAVE DELAYED THE CASE PROCEDURES, IS EVIDENCE THAT SHE KNEW SHE HAD VIOLATED THE PLAINTIFFS WELL ESTABLISHED U.S.C.A RIGHTS AT THE TIME AND DATES OF INCIDENTS STATED IN THE PLAINTIFFS COMPLAINT.

FURTHERMORE, THE DEFENDANT STATES IN # 13 OF HER MARCH 26, 08 AFFIDAVIT WITHIN HER MOTION FOR SUMMARY JUDGEMENT, THAT SHE MADE THE DECISION UPON THE ARRIVAL OF THE PLAINTIFF TO THE D.P.C TO MAKE P.R.N, I.E, (ANTI-PSYCHOTIC DRUGS), AVAILABLE TO BE ADMINISTERED FOR EMERGENCY SITUATIONS, (FAILING TO DEFINE A SPECIFIC EMERGENCY SITUATION AT THE PLAINTIFFS ARRIVAL THAT WOULD SUPPORT HER PRESCRIBING ANTI-PSYCHOTIC DRUGS). DEFENDANTS ENTIRE AFFIDAVIT IS VOID OF STATING SAID DRUG WERE BEING MADE AVAILABLE FOR MEDICAL REASONS. THE ANTI-PSYCHOTIC DRUGS WERE BEING MADE AVAILABLE FOR THE PURPOSE TO PUNISH AN IN ANTICIPATION ~~OF~~ OF PENAL MEASURES, BECAUSE THE DEFENDANT HAD NOT YET ASSESSED AND DIAGNOSED THE PLAINTIFF. BUT KNOWING PLAINTIFF HAD A RIGHT TO REFUSE SAID DRUGS, SEE PARAGRAPH # 9 OF SAID AFFIDAVIT. 3/26/08

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THE AFOREMENTIONED DRAWS AN INFERENCE THAT THE DEFENDANT WAS WELL AWARE THAT AFTER JUNE 10, 04, THAT SHE COULD NOT STRAP THE PLAINTIFF DOWN WITH (4) POINT RESTRAINTS, AND ORDER HIM INJECTED WITH ANTI-PSYCHOTIC DRUGS BELIEVING THE PLAINTIFF WAS MALINGERING WITHOUT VIOLATING THE PLAINTIFF'S WELL ESTABLISHED RIGHTS, (SEE 3/26/08 AFFIDAVIT, DEFENDANT VIOLATED THE PLAINTIFF WELL ESTABLISHED RIGHTS DUE TO HER DELIBERATE INDIFFERENCE THAT DEFINES SHE ACTED OUTSIDE THE GUIDELINES OF 11 DEL C S 468. CAUSING HARM - INJURIES WITH THE RECKLESS DISREGARD FOR THE HEALTH AND SAFETY OF THE PLAINTIFF.

THEREFORE, THE DOCTRINE OF QUALIFIED IMMUNITY SHOULD NOT BE AVAILABLE TO THE DEFENDANT AS DEFENSE

#4.) AFTER THE DEFENDANT, FOSTER AUTHORED HER JUNE 10, 04 REPORT THAT DIAGNOSED THE PLAINTIFF AS MALINGERING, THE DEFENDANT PERSPECTIVE OF THE PLAINTIFF'S D. P. C STATUS, WAS THAT HE WAS NO LONGER AN ALLEGED PSYCHIATRIC PATIENT, BUT MORE SO AN INMATE RESIDENT.



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#5.) IN REGARDS TO SUSTAINING CLAIM FOR CIVIL ASSAULT AND BATTERY. THE DEFENDANT ANTICIPATED UTILIZING ANTI-PSYCHOTIC DRUGS ON THE PLAINTIFF FOR PENAL MEASURE, APON THE PLAINTIFF'S ARRIVAL AT THE D.P.C. . THE ANTI-PSYCHOTIC DRUGS HALDOL-ATIVAN-GEODON WERE MADE AVAILABLE PRIOR TO THE DEFENDANT PERSONALLY ASSESSING AND OR DIAGNOSING THE PLAINTIFF.

SAID ANTI-PSYCHOTIC DRUGS WERE MADE AVAILABLE FOR THE INTENT TO PUNISH THE PLAINTIFF AT THE UNJUSTIFIABLE DISCRETION OF THE DEFENDANT. SUBSEQUENTLY, THE DEFENDANT ON NUMEROUS OCCASSION DURING THE PLAINTIFF'S STAY AT THE D.P.C DATING FROM MAY 21, 04 THRU JUNE 25, 04 ORDERED SEVERAL D.P.C STAFF MEMBERS TO STRAP THE PLAINTIFF DOWN WITH (4) POINT RESTRAINTS, THEN INVOLUNTARILY ADMINISTER THE ANTI-PSYCHOTIC DRUGS HALDOL-ATIVAN-GEODON TO HIM AGAINST HIS WILL AND OR WITHOUT HIS CONSENT, INTENDING TO PUNISH THE PLAINTIFF WITHOUT REGARD TO THE PLAINTIFFS SAFETY AND HEALTH. SPECIFICALLY, THE DEFENDANTS ORDERS 90 PERCENT OF THE TIMES AND DATES STATED IN THE PLAINTIFFS COMPLAINT, TO VIOLATE THE PLAINTIFF IN THE AFOREMENTIONED MANNER DISCRIBED HEREIN, WAS AFTER THE JUNE 10, 04 REPORT AUTHORED BY THE DEFENDANT FOR WHICH DIAGNOSED HIM AS MALINGERING

THEREFORE, THE PLAINTIFF CAN SUSTAIN ~~the~~ CLAIMS FOR CIVIL ASSAULT AND BATTER DUE TO DEFENDANTS ACTIONS FALLING OUTSIDE THE GUIDELINES OF 11 DEL C § 468 AS WELL AS VIOLATING HIS 8TH U.S. CA RIGHTS.

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#6.) NOTHING IN ANY OF THE DEFENDANTS PLEADINGS INDICATE THAT THE DEFENDANT GRANTED THE PLAINTIFF HIS DUE PROCESS RIGHTS, PRIOR TO AND OR AFTER ORDERING HIM (4) POINT RESTRAINED, (AS IS STATED IN HER MARCH 26, 08 MOTION FOR SUMMARY JUDGEMENT AS WELL AS HER MARCH 26, 08 AFFIDAVIT), SUCH AS A.) HIS RIGHT TO RECEIVE WRITTEN NOTICE OF THE ALLEGED INFRACTION, B.) HIS RIGHT TO PRESENT EVIDENCE, C.) HIS RIGHT TO CALL WITNESSES IN HIS BEHALF, D.) HIS RIGHT TO BE PROVIDED WITH THE FACT FINDING RATIONAL, E.) HIS RIGHT TO CONFRONT HIS ACCUSER, F.) HIS RIGHT TO APPEAL

### 8TH + 14TH U.S.C.A RIGHTS VIOLATIONS.

#7.) THIS HONORABLE COURT HAS ALREADY IN ITS JULY 5, 06 AMENDED MEMORANDUM IN RESPONSE TO DEFENDANT'S FOSTER'S JUNE 20, 05 MOTION TO DISMISS RULED THAT THE DEFENDANT FOSTER IS NOT INTITLED TO DEFENSES CITED AS NUMBERS II, III AND IV OF HER MOTION FOR SUMMARY JUDGEMENT, AND AT THIS JUNCTION OFFER ABSOLUTELY NOTHING NEW FOR THIS HONORABLE COURT TO CONSIDER IN FACT AND OR LAW, THAT MAY HAVE PREVIOUSLY UNDERMINED THE FUNDAMENTAL LEGALITY, RELIABILITY, INTEGRITY OR FAIRNESS OF SAID RULING, FOR THIS HONORABLE COURT TO RECONSIDER THESE DEFENSES AGAIN IN THE INTREST OF JUSTICE.

FURTHERMORE, FOR THIS HONORABLE COURT TO CONSIDER THE ADREMENTIONED DEFENSES WOULD PREJUDICE THE PLAINTIFF



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#8.) THE DEFENDANT FOSTER HAS ONLY MADE FACIAL CHALLENGES SOLEY BASED UPON THE APPLICATION OF LEGAL PRINCIPALS, DUE TO THE LACK OF ANY SPECIFIC DETAILED INCIDENT STATED IN HER MOTION FOR SUMMARY JUDGEMENT THAT CONNECTS THE PLAINTIFF AND GIVES REASON WHY THIS HONORABLE COURT SHOULD AS A MATTER OF FACT AND OR LAW TAKE THE DEFENDANTS AFFIRMATIVE DEFENSES INTO CONSIDERATION.

THE DEFENDANT FOSTER'S PLEADINGS STATED IN HER MOTION FOR SUMMARY JUDGEMENT, FAILED TO STATE THE DETAILS OF THE ALLEGED EMERGENCY INCIDENT(S), I.E., NAMES, DATES, TIMES, LOCATIONS, SIGNED AFFIDAVITS, DISCRPTION OF THE PLAINTIFFS CONDUCT THAT GAVE THE REASON TO DEEM THE PLAINTIFF A THREAT TO HIS VERY OWN SAFETY, THE SAFETY OF OTHERS, OR THE ORDILY OPERATION OF THE FACILITY. THE DEFENDANTS PLEADINGS STATED IN THE MOTION FOR SUMMARY JUDGEMENT ARE INSUFFICIENT IN FACT AND LAW, AND IS ONLY METAPHYSICAL IN NATURE, AND THEREFORE, SHOULD BE DEEMED JUDICIALLY MERITLESS AND NOT TAKEN INTO CONSIDERATION BY THIS HONORABLE COURT WHEN JUDGEMENT IS RENDERED IN THIS CASE.

#9.) THE DEFENDANT HAS FAILED TO STATE THE AFFIRMATIVE DEFENSE OF "QUALIFIED IMMUNITY" STATED IN HER MARCH 26, 08 MOTION FOR SUMMARY JUDGEMENT IN HER PRIOR JUNE 20, 05 MOTION TO DISMISS AND OR HER RESPONSES TO THE PLAINTIFF'S COMPLAINT - PLEADINGS - DEPOSITIONS - INTERROGATORIES - ADMISSIONS AND OR IN ANY OF HER PLEADINGS OR MOTIONS PRIOR TO THE CLOSE OF DISCOVERY, (JAN 27, 2008), AND CONSIDERATION OF SAID DEFENSE NOW, WOULD PREJUDICE THE PLAINTIFF.

FAILURE TO RAISE DEFENSE RESULTS IN A WAIVER OF THAT DEFENSE. CHAPENTER V. GODSIL, 937.2d 859, 863 (3RD CIR. 1991).



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# 10.) THE PLAINTIFF DID NOT GIVE THE DEFENDANT THE CONSENT TO ADMINISTER ANTI-PSYCHOTIC DRUGS TO HIM, NOR DID HE GIVE CONSENT TO RESTRAIN HIM WITH (4) POINT RESTRAINTS, AS IT IS STATED IN NUMBER 5 OF THE PLAINTIFF'S CIVIL COMPLAINT. I QUOTE, NO, NO NURSE, I DONT NEED A SHOT, I DIDN'T DO ANYTHING TO DESERVE BEING GIVE A SHOT, UNQUOTE.

# 11.) IN REGARDS TO THE CASE LAW ATTACHED AS EXHIBIT IN THE MEMORANDUM IN SUPPORT OF DEFENDANTS MOTION FOR SUMMARY JUDGMENT, THE DEFENDANT FOSTER HAS FAILED TO STATE NAMES, DATES, TIMES, LOCATIONS, SIGNED AFFIDAVITS AND OR FULL DISCRPTION OF ANY OF THE ALLEGED EMERGENCY INCIDENTS, THAT GAVE REASON CITED IN SAID CASE LAW EXHIBITS THE AUTHORITY TO INVOLUNTARILY ADMINISTER ANTI-PSYCHOTIC DRUGS. THEREFORE, SAID CASE LAW SHOULD NOT BE TAKEN INTO CONSIDERATION WHEN THIS HONORABLE COURT RENDERS JUDGEMENT IN THIS CASE.

# 12.) THE DEFENDANT HAS NOT SUBMITTED ANY PLEADINGS THAT THE PLAINTIFFS CLAIMS AS THEY ARE STATED IN HIS COMPLAINT, THAT THEY ARE SIMPLY UNTRUE, AND OR THAT THERE ARE NO GENUINE ISSUE OF MATERIAL FACT FOR TRIAL, FOR WHICH RELIEF CAN BE GRANTED. THIS CAUSES THIS HONORABLE COURT TO DRAW AN INFERENCE OF CREDIBILITY. CREDIBILITY IS A JURY FUNCTION. REEVES, 530 U.S. AT 150.

~~WAGON~~ P. 9

#13.) THE PLAINTIFFS CLAIMS AS THEY ARE STATED IN HIS CIVIL COMPLAINT, ARE FACTUALLY SUPPORTED BY DEPOSITIONS, ADMISSIONS, DISCOVERY, INTERROGATORIES AS WELL AS THE DEFENDANT FOSTERS VERY OWN MOTION FOR SUMMARY JUDGEMENT AND HER AFFIDAVIT DATED MARCH 26, 08. THE AFOREMENTIONED VALIDATE THAT THERE IS MATERIAL FACT FOR TRIAL FOR WHICH RELIEF CAN BE GRANTED. THE AFOREMENTIONED SUPPORTS DENIAL OF THE DEFENDANTS MOTION FOR SUMMARY JUDGEMENT IN ALL REGARDS.

#14.) THE DEFENDANT CAUSED THE PLAINTIFF TO BE TRANSFERRED BACK TO THE D.O.C WITHOUT FIRST OBTAINING AN OFFICIAL COURT ORDER DOCKETED WITH THE NEW CASTLE CO. SUPERIOR COURT, THE AFOREMENTIONED VIOLATED THE PLAINTIFF'S LIBERTY INTREST TO RECEIVE TREATMENT AT THE D.P.C FOR HIS VERY OWN WELL BEING AS ORDERED BY JUDGE TOLIVER ON DEC 1, 03, AND THEREFORE DEFINES THE DEFENDANTS DELIBERATE INDIFFERENCE TOWARDS THE PLAINTIFF'S DUE PROCESS RIGHT TO HAVE A COMPETENCY HEARING THAT WOULD HAVE GIVEN THE PLAINTIFF THE OPPORTUNITY TO IMPUNE THE DEFENDANTS ERRONEOUS JUNE 10, 04 REPORT, (TO ERRONEOUS TO BE JUDICIALLY RELIED ON BY THE N.C.C SUPERIOR COURT).

BECAUSE OF THE DEFENDANT VIOLATING THE PLAINTIFF IN THE AFOREMENTIONED MANNER, THE PLAINTIFF HAS NEVER BEEN DEEM COMPETENT, AND THEREFORE STANDS CRIMINALLY INCOMPETENT TOLLING SINCE DEC 1, 03.

14TH U.S.C.A RIGHT VIOLATION. (SEE S. ETC DOCK, ATTACHED)



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#15.) THE DEFENDANT KNEW THAT RESTRAINING THE PLAINTIFF AS WELL AS HAVING HIM INVOLUNTARILY ~~AND~~ ADMINISTERED ANTI-PSYCHOTIC DRUGS CAUSED THE PLAINTIFF PAIN AND SUFFERING DUE TO THE PLAINTIFF REQUESTING MEDICAL TREATMENT FOR THE ADVERSE INJURIES HE RECEIVED FROM THE TREATMENT THE DEFENDANT OPENINGLY ADMITS, (SEE MARCH 26, 08 AFFIDAVIT.)

#16.) THE PLAINTIFF HEREBY REQUEST THAT THIS HONORABLE COURT TAKE THE PLAINTIFFS PRO-SE STATUS INTO CONSIDERATION

#17.) FOR ALL OF THE AFOREMENTIONED REASONS THE DEFENDANTS DISPUTES ARE NOT AMENABLE TO RESOLUTION BY SUMMARY JUDGEMENT, AND SHOULD BE DECIDED BY A JURY.

#18.) THE PLAINTIFF HEREBY REQUEST THAT THIS HONORABLE COURT CHARGE THE DEFENDANT WITH ANY AND ALL VIOLATIONS THAT THE PLEADINGS, DEPOSITION, DISCOVERY, ADMISSIONS, INTERROGATORIES AND AFFIDAVITS WILL SUPPORT. WITHOUT VIOLATING THE DEFENDANT U.S.C.A RIGHTS AND OR WITHOUT IT INDER THE ADVANCE OF THE COURTS CALENDER.

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#19.) THE DEFENDANT OBTAINED AND SUBMITTED THE INFORMATION STATED IN HER JUNE 10, 04 REPORT IN VIOLATION OF THE PLAINTIFFS U.S. CA RIGHTS AS STATED IN THE PLAINTIFFS COMPLAINT, PLEADINGS, DEPOSITION, INTERROGATORIES, DISCOVERY, ADMISSIONS, AFFIDAVITS IN THIS CASE, AND THEREFORE SUPPORTS THE PRELIMINARY INJUNCTION SOUGHT REGARDING SAID REPORT, OF THE DEFENDANT INFORMING THE N.C.C SUPERIOR COURT THAT HER REPORT ISN'T JUDICALLY RELIABLE BECAUSE IT IS THE FRUIT OF A POISONOUS TREE. SEE PARAGRAPH # 21 HEREIN.

#20.) THE PLEADINGS, COMPLAINT, DEPOSITION, INTERROGATORIES, ADMISSIONS, DISCOVERY AND AFFIDAVITS IN THIS CASE SUPPORT THE PRELIMINARY INJUNCTION SOUGHT, FOR MEDICAL HELP STATED IN HIS COMPLAINT.

#21.) THE DEFENDANT COULD HAVE RE-AUTHORED HER JUNE 10, 04 REPORT TO REFLECT TO DETAILS AS THEY ARE STATED IN THE DEPOSITION, INTERROGATORIES, ADMISSIONS, DISCOVERY, AND HER MARCH 26, 08 AFFIDAVIT, DUE TO HER REPORT BEING FILED ON JUNE 28, 04, THREE DAYS AFTER THE PLAINTIFF WAS TRANSFERRED BACK TO THE D.O.C FOR WHICH DEFINES THE DEFENDANTS DELIBERATE INDIFFERENCE THAT VALIDATES HER REPORT IS INDEED FRUIT OF A POISONOUS TREE.

SEE THE ATTACHED N.C.C S.C.T.C DOCK #39 AND 41



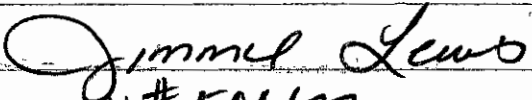
### CERTIFICATE OF SERVICE

I, THE UNDERSIGNED PLAINTIFF JIMMIE LEWIS  
DOE HEREBY CERTIFY ON THIS 28<sup>TH</sup>, DAY OF MARCH,  
2008, THAT I DID MAIL ONE TRUE AND CORRECT  
COPY OF THE PLAINTIFF'S MOTION FOR DISMISSAL OF  
DEPENDANT SYLVIA FOSTER'S MOTION FOR SUMMARY  
JUDGEMENT # 1, BY U.S. POSTAL TO EACH  
OF THE FOLLOWING :

CLERK OF THE COURT (GMS)  
U. S. DISTRICT COURT  
844 N. KING ST, LOCKBOX 18  
WILMINGTON, DELAWARE 19801

JOSEPH C. SCHOELL  
WILM TRUST CENTER  
1100 N. MARKET ST  
SUITE 1001  
WILMINGTON, DELAWARE 19801

DATE: 3/28/08

  
SBI # 506622  
DEL. CORR. CENTER  
1181 PADDOCK RD  
SMYRNA, DE 19977

SUPERIOR COURT CRIMINAL DOCKET  
( as of 01/30/2008 )

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State of Delaware v. JIMMY LEWIS DOB: 12/25/1966  
 State's Atty: BRIAN J ROBERTSON , Esq. AKA: EMMANUEL E ELDER  
 Defense Atty: JOHN S EDINGER , Esq. EMMANUEL E ELDER

Assigned Judge:

## Charges:

Count	DUC#	Crim.Action#	Description	Dispo.	Dispo. Date
001	0305016966	IN03060175R2	CARJACKING 2ND	GLTY	10/23/2003
002	0305016966	IN03060176R2	THEFT \$1000 OR>	GLTY	10/23/2003
003	0305016966	IN03060177R2	RESIST ARREST	GLTY	10/23/2003

No.	Event Date	Event	Judge
1	06/03/2003	CASE ACCEPTED IN SUPERIOR COURT. ARREST DATE: 05/26/2003 PRELIMINARY HEARING DATE: 060203 BAIL: SECURED BAIL-HELD NO CONDITION	12,000.00 100%
2	06/30/2003	INDICTMENT, TRUE BILL FILED.NO 6 SCHEDULED FOR CASE REVIEW AND ARRAIGNMENT 07/28/03 AT 9:00	
3	07/03/2003	ACKNOWLEDGEMENT OF RECEIPT OF DISCOVERY RESPONSE. JOHN EDINGER	
4	07/14/2003	SUMMONS MAILED.	
	07/28/2003	CASE REVIEW & ARRAIGNMENT CALENDAR: SET FOR FINAL CASE REVIEW. DATE: 8/18/03 @ 9:00	COOCH RICHARD R.
6	08/12/2003	DEFENDANT'S LETTER FILED.	
	08/18/2003	FINAL CASE REVIEW: NO PLEA/SET FOR TRIAL_10/21/2003.	GEBELEIN RICHARD S.
5	08/18/2003	ORDER SCHEDULING TRIAL FILED. TRIAL DATE: 10/21/03 CASE CATEGORY: 2 ASSIGNED JUDGE (CATEGORY 1 CASES ONLY): UNLESS THE COURT IS ADVISED WITHIN 2 WEEKS OF THE UNAVAILABILITY OF NECESSARY WITNESSES, THE COURT WILL CONSIDER THE MATTER READY FOR TRIAL. ABSENT EXCEPTIONAL CIRCUMSTANCES, RESCHEDULING OR CONTINUANCE REQUESTS WILL BE DENIED.	
8	08/29/2003		



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State of Delaware v. JIMMY LEWIS DOB: 12/25/1966  
 State's Atty: BRIAN J ROBERTSON , Esq. AKA: EMMANUEL E ELDER  
 Defense Atty: JOHN S EDINGER , Esq. EMMANUEL E ELDER

No.	Event Date	Event	Judge
		DEFENDANT'S LETTER FILED.	
12	09/30/2003	DEFENDANT'S LETTER FILED.	
7	10/06/2003	SUBPOENA(S) MAILED.	
9	10/07/2003	DEFENDANT'S LETTER FILED.	
13	10/07/2003	STATE'S WITNESS SUBPOENA ISSUED.	
22	10/10/2003	DEFENDANT'S LETTER FILED.	
15	10/14/2003	MOTION FOR DISCOVERY AND MOTION TO SUPPRESS FILED PROSE. REFERELL MEMO (RULE 47) SENT TO P.D. OFFICE TO MR. EDINGER.	
16	10/14/2003	DEFENDANT'S LETTER FILED. TO: J. EDINGER LETTER REFERRED TO COUNSEL	
10	10/15/2003	DEFENDANT'S LETTER FILED.	
11	10/15/2003	DEFENDANT'S LETTER FILED.	
14	10/17/2003	REFERRAL TO COUNSEL MEMORANDUM FILED. ATTACHING LETTER/DOCUMENT FROM DEFENDANT. REFERRED TO DEFENSE COUNSEL AS ATTORNEY OF RECORD. COPY OF DEFENDANT'S LETTER NOT REVIEWED BY THE COURT AND NOT RETAINED WITH THE COURT'S FILE. PLEASE ADVISE YOUR CLIENT THAT FURTHER COMMUNICATIONS REGARDING THIS CASE SHOULD BE DIRECTED TO YOU. J. EDINGER REFERRED BY: S. NAPIER	
18	10/20/2003	STATE'S WITNESS SUBPOENA RETURNED	
17	10/21/2003	TRIAL CALENDAR- WENT TO TRIAL JURY	ABLEMAN PEGGY L.
19	10/21/2003	JURY TRIAL HELD 10/21/03, 10/22/03, AND 10/23/03. JURY SWORN IN 10/21/03 AT 3:10 P.M. 10/22/03 DEFENSE MOTION FOR ACQUITTAL ON ALL 3 COUNTS. MOTION DENIED ON ALL 3 COUNTS. JURY FOUND DEFENDANT GUILTY OF CARJACKING 2ND (0175), THEFT (0176) AND RESISTING ARREST (0177). PSI ORDERED. SENTENCING SCHEDULED FOR 12/5/03 AT 9:30 A.M.	ABLEMAN PEGGY L.

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( as of 01/30/2008 )

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State of Delaware v. JIMMY LEWIS DOB: 12/25/1966  
 State's Atty: BRIAN J ROBERTSON , Esq. AKA: EMMANUEL E ELDER  
 Defense Atty: JOHN S EDINGER , Esq. EMMANUEL E ELDER

No.	Event Date	Event	Judge
		1 COURT EXHIBIT. GAVE TO EDGAR JOHNSON TO PUT IN VAULT. AG/ROBERTSON - PD/EDINGER - CR/FELDMAN, DONNELLY & MAURER - CC/CARUSO. JUDGE HERLIHY TOOK THE VERDICT FOR JUDGE ABLEMAN	
24	10/21/2003	LETTER FROM: MARGOT R. MILLAR, OFFICE OF DISCIPLINARY COUNSEL TO: DEFENDANT. RE: DISCIPLINARY COMPLAINT AGAINST DEFTS. COURT APPOINTED ATTY. *SEE FULL LETTER IN FILE*	
20	10/23/2003	CHARGE TO THE JURY FILED.	ABLEMAN PEGGY L.
21	10/23/2003	VOIR DIRE QUESTIONS FILED. STATE'S PROPOSED VOIR DIRE.	
23	11/04/2003	LETTER FROM SUPREME COURT TO JIMMY LEWIS RE: THE SUPREME COURT IS IN RECEIPT OF YOUR LETTER DATED OCTOBER 24, 2003. THE SUPREME COURT IS AN APPELLATE COURT WHICH RECEIVES APPEALS AND RELATED DOCUMENTS FILED PURSUANT TO SUPREME COURT RULES. ACCORDING TO THE SUPREME COURT RECORDS, YOU DO NOT HAVE AN APPEAL PENDING AT THIS TIME. BY COPY OF THIS LETTER I AM PROVIDING COPIES OF YOUR LETTER TO YOUR ATTORNEY, AND THE DEPUTY ATTORNEY GENERAL, THE PROTHONOTARY.	
25	11/14/2003	MOTION FOR PSYCHOLOGICAL/PSYCHIATRIC EXAM FILED. BY JOHN S EDINGER JR, ESQ REFERRED TO JUDGE TOLIVER-OFFICE JUDGE SENT UP (11/24/03)	
26	12/01/2003	ORDER: ORDERED THAT JIMMY LEWIS THE DEFENDANT, BE TRANSFERRED TO THE DELAWARE STATE HOSPITAL FOR PSYHIATRIC EVALUATION FOR THE PURPOSE OF DETERMINING COMPETENCY, AND TO OBTAIN TREATMENT FOR HIS OWN WELL-BEING AS SOON AS DELAWARE STATE HOSPITAL NOTIFIES GANDER HILL OF AN AVAILABLE OPENING, JIMMY LEWIS IS TO BE TRANSPORTED AND EVALUATED.	TOLIVER CHARLES H. IV
27	12/03/2003	MOTION FOR TRANSCRIPT FILED PROSE. REFERRED TO JUDGE ABLEMAN. * NOTE FROM CHAMBERS-JUDGE REVIEWED BOTH LETTERS 12/22/03 NO ACTION NEEDED. AMH	
28	12/16/2003	DEFENDANT'S LETTER FILED.	
29	01/13/2004	DEFENDANT'S LETTER FILED.	
30	03/01/2004	LETTER FROM: JOHN S. EDINGER, ESQ.	TO: JUDGE ABLEMAN



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( as of 01/30/2008 )

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State of Delaware v. JIMMY LEWIS  
State's Atty: BRIAN J ROBERTSON , Esq.  
Defense Atty: JOHN S EDINGER , Esq.

DOB: 12/25/1966  
AKA: EMMANUEL E ELDER  
EMMANUEL E ELDER

No.	Date	Event	Judge
		RE: ON 12/01/03, THE COURT ORDERED THAT THE DEFENDANT BE TRANSFERRED TO THE DELAWARE STATE HOSPITAL FOR PSYCHIATRIC EVALUATION. TO DATE, HE HAS NOT BEEN TRANSPORTED FOR AN EVALUATION. (LETTER AND FILE REFERRED TO JUDGE ABLEMAN 03/01/04)	
31	03/11/2004	MOTION FOR JUDGMENT OF ACQUITTAL FILED PROSE.	REFERRED TO JUDGE ABLEMAN
32	03/23/2004	LETTER/ORDER ISSUED BY JUDGE: ABLEMAN RE: THE COURT HAS CONSIDERED YOUR PRO SE MOTION FOR JUDGEMENT OF ACQUITTAL. NORMALLY, THE COURT WILL NOT CONSIDER ANY PLEADINGS THAT YOU FILE PRO SE SINCE YOU ARE REPRESENTED BY COUNSEL, JOHN EDINGER. YOU SHOULD CONSULT WITH HIM FOR THE FILING OF ANY MOTIONS OR PLEADINGS IN THIS CASE, YOUR MOTION FOR JUDGEMENT OF ACQUITTAL IS UNTIMELY AND IS THEREFORE HEREBY DENIED. IT IS SO ORDERED JUDGE ABLEMAN.	ABLEMAN PEGGY L.
33	04/19/2004	PETITION FOR A WRIT OF HABEAS CORPUS FILED (PRO SE) REFERRED TO JUDGE CARPENTER. DATE REFERRED: 4/21/04 CIVIL CASE NO: 04M-04-054	
34	04/26/2004	LETTER/ORDER ISSUED BY JUDGE CARPENTER. RE: HABEAS CORPUS PETITION 04M-04-054 IS DENIED. YOUR REQUEST FOR HABEAS CORPUS RELIEF HAS BEEN FORWARDED TO ME FOR A DECISION. A REVIEW OF THE DOCKET IN THIS MATTER CLEARLY INDICATES THAT YOU WERE CONVICTED ON OCTOBER 21, 2003 ON THE CHARGES OF CARJACKING SECOND DEGREE, THEFT, AND RESISTING ARREST AND THE TRIAL WAS PRESIDED OVER BY JUDGE ABLEMAN. IN NOVEMBER, 2003, YOUR COUNSEL, MR. EDINGER, FILED A MOTION FOR A PSYCHIATRIC EXAMINATION WHICH WAS APPROVED BY JUDGE TOLIVER ON DECEMBER 1, 2003. WHILE I APPRECIATE THAT YOU ARE UPSET REGARDING THE DELAY THAT HAS OCCURED WITH REGARD TO THIS EVALUATION, IT DOES NOT PROVIDE YOU WITH A BASIS FOR HABEAS CORPUS RELIEF. SINCE IT IS CLEAR BASED UPON THE ABOVE THAT YOU ARE PRESENTLY BEING HELD CONSISTENT WITH YOUR CONVICTION ON THE ABOVE CHARGES AND YOUR FAILURE TO POST APPROPRIATE BAIL, YOUR REQUEST IS HEREBY DENIED. I WILL FORWARD A COPY OF THIS LETTER TO JUDGE ABLEMAN AND JUDGE TOLIVER SO THAT THEY MAY BE AWARE OF THE DELAY THAT IS OCCURRING. WCC	CARPENTER WILLIAM C. JR.
35	04/26/2004	NOTICE OF SERVICE RE: COPY OF GROUNDS FOR APPEAL	
36	05/07/2004	DEFENDANT'S LETTER FILED.	

SUPERIOR COURT CRIMINAL DOCKET  
( as of 01/30/2008 )

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State of Delaware v. JIMMY LEWIS DOB: 12/25/1966  
 State's Atty: BRIAN J ROBERTSON, Esq. AKA: EMMANUEL E ELDER  
 Defense Atty: JOHN S EDINGER, Esq. EMMANUEL E ELDER

No.	Event Date	Event	Judge
37	05/13/2004	PSYCHOLOGICAL/PSYCHIATRIC REPORT FILED. SUBMITTED BY: DONALD NAPOLIN, MENTAL HEALTH SUPERVISOR AND ORDER REQUESTING DEFENDANT BE TRANSFERED TO MITCHELL BUILDING GRANTED BY JUDGE TOLIVER ON 5-13-04	
38	05/14/2004	DEFENDANT'S LETTER FILED. LETTER REGARDING NAMES AND PLACE EMPLOYMENT OF BAILIFF'S WHO PROVIDED COURT ON 10/21 10/23 FOR A WRIT OF MANDAMUS TO BE FILED. *SEE FULL LETTER IN FILE.	
40	06/16/2004	LETTER FROM DIANNE STACHOWSKI TO JUDGE TOLIVER, REQUESTING DEFT BE TRANSFERED BACK TO DOC.	
39	06/28/2004	PSYCHOLOGICAL/PSYCHIATRIC REPORT FILED. SUBMITTED BY: SYLVIA FOSTER MD COPY SENT TO ATTORNEY AND JUDGE TOLIVER	
41	06/29/2004	LETTER FROM DIANNE STACHOWSKI TO JUDGE TOLIVER REQUESTING DEFENDANT BE TRANSFERRED BACK TO DOC.	
42	07/06/2004	LETTER FROM COMMISSIONER WHITE TO COUNSEL GIVING THEM 10 DAYS TO REQUEST A COMPETENCY HEARING AND INFORMING OF THE SENTENCING DATE OF 8-27-04 AT 9:30 WITH JUDGE TOLIVER.	
43	07/19/2004	MOTION TO DECLARE DEFENDANT AN HABITUAL OFFENDER FILED. BY BRIAN J ROBERTSON, DAG MOTION PUT IN FILE TO BE HEARD AT SENTENCING	
44	07/26/2004	PSYCHOLOGICAL/PSYCHIATRIC REPORT FILED. COPY RECEIVED FROM DEFENDANT LEWIS SEALED BY ORDER OF SUPERIOR COURT	
45	08/02/2004	CONTINUANCE REQUEST FILED BY J EDINGER - GRANTED PER JUDGE ABLEMAN (SENTENCING)	
46	08/09/2004	MOTION TO DISMISS COUNSEL FILED PRO SE. REFERRED TO JUDGE ABLEMAN	
47	08/17/2004	MOTION FOR COMPETENCY HEARING FILED PRO SE. REFERRED TO JUDGE ABLEMAN	
48	08/17/2004	MOTION FOR DISCOVERY FILED PRO SE. REFERRED TO JUDGE ABLEMAN	
49	08/20/2004		ABLEMAN PEGGY L.

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